

4665
1 BILL NO. G-79-03-20 (As Amended)

2 GENERAL ORDINANCE NO. G- 26-79.

3 AN ORDINANCE regarding Historic Preservation
4 District and amending Chapter 33 of the Code
of the City of Fort Wayne, Indiana, 1974.

5 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE,
6 INDIANA:

7 SECTION 1. That Article VI, Chapter 33, of the Code of the City of
8 Fort Wayne, Indiana, of 1974, be and the same is hereby amended to be and
9 read as follows:

10 ARTICLE VI - HISTORIC PRESERVATION DISTRICT

11 This district is an overlay district and may be established in addition to the
12 underlying districts and shall place additional regulations upon the property
13 located therein.

14 SECTION 39. PURPOSES

15 In order to promote the economic and general welfare of the citizens of Fort
16 Wayne and to insure the harmonious, orderly and efficient growth and develop-
17 ment of the municipality, it is deemed essential by the City of Fort Wayne that
18 the qualities relating to the history of the City and a harmonious outward
19 appearance of structures which support and enhance property values and attract
20 residents be preserved. Some of these qualities are the continued existence
21 and preservation of historic areas and buildings, the continued construction,
22 reconstruction, and remodeling of buildings in the historic styles and a
23 general harmony as to style, form, proportion, texture and material between
24 the buildings of historic design and those of more modern design. This
25 purpose is advanced through the preservation and protection of the historically
26 or architecturally worthy structures which impart a distinct aspect to the
27 City and which serve as visible reminders of the historic heritage of the
28 City. A Historic District shall apply to the parcel(s) so designated and any
29 structure(s) or appurtenances found thereon. Although this ordinance does
30 not directly relate to the procedures for designation of a structure or area
31 on the National Register of Historic Places, coordination between this
32

ordinance and the National Register's procedures is strongly encouraged.

SECTION 40. DEFINITIONS

1. Review Board - Fort Wayne Historic Preservation Review Board
2. Certificate of Appropriateness - A certificate issued by the Zoning Enforcement Officer stating that the occupancy, use or alteration of land, building or structure in a Historic District referred to therein complies with the provisions of this chapter.
3. Commission - Fort Wayne City Plan Commission
4. Demolition - The razing of any exterior architectural feature or structure, including its ruining by neglect of necessary maintenance and repairs, or either.
5. Demolition Permit - A permit which authorizes the razing of any exterior architectural feature or structure.
6. Economically Unfeasible - A cost in excess of anticipated return, considering all viable alternatives.
7. Emergency Repair - Replacement of any external component of a primary structure, which if delayed could cause severe damage to the other components of the structure or which would prohibit adequate protection from the weather elements and thus jeopardize the health, welfare or safety of the occupants.
8. Form - The shape and structure of something as distinguished from its material.
9. Improvement - Any place, structure, building, fixture, or man-made object which in whole or part constitutes a visually significant exterior physical betterment, adornment, or enhancement of any real property.
10. Landmark - Any physical feature or improvement designated by the City Council as such, which in whole or part has historical, social, cultural, architectural, or aesthetic significance to the City and has been in existence for no fewer than fifty (50) years.
11. Material - Matter that has qualities which give it individuality and by which it may be categorized.

- 1 12. Overlay District - A district which imposes requirements in addition to
2 the regulations of the underlying zoning district.
- 3 13. Physically Unfeasible - Lack of existence of labor, material and/or
4 techniques to perform the work.
- 5 14. Planning Department - The Department of Community Development and Planning
6 or such person authorized.
- 7 15. Proportion - Harmonious relation of parts to each other or the whole.
- 8 16. Site Improvement - All or any of the landscaping, planting, paving, steps,
9 fencing, masonry walls, and other significant attributing features on
10 the site of any structure.
- 11 17. Style - A manner of expression characteristic of an individual, period,
12 school or nation.
- 13 18. Texture - The visual or physical surface characteristics and appearance
14 of a structure.

15
16 SECTION 41. CREATION OF THE HISTORIC PRESERVATION REVIEW BOARD

- 17 A. The Review Board shall consist of seven (7) members. The voting members
18 shall be appointed by the Mayor of the City of Fort Wayne and approved
19 by the Fort Wayne City Council. One member must have Indiana architectural
20 certification, one member shall be a Real Estate Broker, one member shall
21 be a contractor licensed by the Fort Wayne/Allen County Building Department,
22 one member shall be a professional historian, and three members shall be
23 chosen from the community-at-large. Voting members shall each serve for
24 staggered terms of three (3) years; however, the initial terms of members
25 may be for one (1) year, two (2) years, or three (3) years in order for
26 the terms to be staggered. A vacancy shall be filled through appointment
27 by the Mayor for the duration of the unexpired term and approved by the
28 Fort Wayne City Council. No members shall be employed by the City of
29 Fort Wayne. Members must be residents of the City of Fort Wayne who have
30 demonstrated an interest in the preservation and development of historic
31 buildings and areas.

- 1 B. Members of the Review Board shall serve without compensation but shall be
2 paid for reasonable expenses incurred in the performance of their duties.
- 3 C. The Review Board shall elect from its membership a Chairperson, Vice-
4 Chairperson and Secretary who shall serve for one (1) year and who may be
5 reelected. The Review Board shall adopt rules for the transaction of its
6 business not inconsistent with this Section. The rules must include the
7 time and place of regular meetings and a procedure for the calling of
8 special meetings. All scheduled meetings of the Review Board must be
9 open to the public and a public record shall be kept of the Review Board's
10 resolutions, proceedings, and actions. The secretary shall be responsible
11 for the maintenance of the Review Board's records.
- 12 D. Any official action of the Review Board requires a consensus of a majority
13 of the members. For the Review Board to take action a quorum of four (4)
14 members must be present.
- 15 E. The Review Board shall hold regular meetings, at least monthly, except
16 when it has no business.
- 17 F. Each official of the governmental unit who has responsibility for building
18 inspection, building permits, planning, or zoning shall provide such
19 technical, administrative and clerical assistance as may be requested
20 by the Review Board.

21
22 SECTION 42. ESTABLISHMENT AND REGULATION OF HISTORIC PRESERVATION DISTRICTS

- 23 A. The City Council may by ordinance establish, amend, or rescind one or
24 more areas or structures of the city as Historic Preservation Districts,
25 in accordance with the procedures and standards stated in this Article.
26 A Historic Preservation District is subject to the regulations and res-
27 trictions imposed by this Article as well as other Articles of this
28 Ordinance. A Historic Preservation District applies to areas or structures
29 so established and any appurtenances therein or thereto.
- 30 B. Amendments may be initiated by a petition from the Plan Commission, or by
31 the owners of 50% or more of the area involved in the petition. Petitions
32 shall be filed in the Planning Department on the form prescribed by the
Plan Commission.

- 1 C. Upon receipt by the Review Board, such application shall be forwarded to
2 the Planning Department, which shall investigate the property which is
3 the subject of such application and shall prepare a written report for
4 the Review Board.
- 5 D. At the next regularly scheduled meeting of the Review Board following its
6 receipt of the Planning Department's report, such application shall be
7 considered by said Review Board, which shall recommend to the Plan
8 Commission within 180 days:
- 9 (1) that such application be approved as submitted or as modified by
10 that Review Board, or,
11 (2) that action be deferred, or,
12 (3) that such application shall be denied.
- 13 E. The Plan Commission shall hold a public hearing on such petition and
14 recommendation by the Review Board. At least ten (10) days prior to the
15 date set for such hearing, the Plan Commission shall publish in a newspaper
16 of general circulation in the City, a notice of time and place of such
17 hearing. Following such hearing the Plan Commission shall consider such
18 petition and shall recommend to the City Council:
- 19 (1) that such petition be approved, as submitted or as modified by the
20 Plan Commission, or,
21 (2) that action be deferred, or,
22 (3) that such petition be denied.
- 23 F. Thereafter, an ordinance relative to such petitions shall be prepared
24 and submitted to the City Council, which shall proceed with the considera-
25 tion of such proposed ordinance in the same manner and subject to the
26 same voting requirements as would apply in the case of an ordinance to
27 rezone land, provided that the City Council may amend such proposed
28 ordinance prior to its adoption in any manner it may deem necessary to
29 accomplish the purposes of this section.
- 30 G. A Historic Preservation District shall not be established unless the
31 proposed area or structure is consistent with the purposes of this Article
32 and one or more of the following standards.

- (1) The presence of one or more styles of architecture: (a) reflecting one or more historical periods; (b) having a unique significance, interest, importance, or value, or; (c) in danger of becoming extinct.
- (2) The presence of one or more structures or structural features which are of historical, social, cultural, architectural, or aesthetic significance, interest, importance, or value.
- (3) The presence of a distinct historic interest of a local, state, or national character.

SECTION 43. CERTIFICATES OF APPROPRIATENESS

- A. In Historic Districts no exterior portion of any structure, (including walls, fences, light fixtures, colors, steps and parking lots or other appurtenant features) utility or sign, shall be erected, altered, restored, moved or demolished until an application for a Certificate of Appropriateness has been submitted to and approved by the Review Board.
- B. Nothing in this Article shall be construed to prevent the ordinary repairs and maintenance of any such structure.
- C. An application for a Certificate of Appropriateness shall be filed in the Planning Department on the form prescribed by the Review Board. Within ten (10) days of receipt, such application shall be forwarded to the Review Board for consideration. The Review Board or Planning Department may require submission of such reports and exhibits as are reasonably necessary in making a determination as to appropriateness. For construction, alteration or renovation in Historic Districts, the Review Board shall consider an application for a Certificate of Appropriateness within thirty (30) days following the receipt of the application.
- D. A Certificate of Appropriateness shall not be issued unless the Review Board finds that the proposed work is appropriate and consistent with the purposes of this Article and after considering the following standards:
 - (1) The effect of the proposed work in creating, changing, destroying, or affecting the exterior architectural features of the structure upon which such work is to be done,

1 (2) The relationship between such exterior architectural features,
2 together with such effects, and the exterior architectural features
3 of the structure,

4 (3) The relationship between the results of such work and the exterior
5 architectural features of any other, neighboring structures in such
6 district,

7 (4) The effects of such work upon the preservation, protection, enhance-
8 ment, perpetuation, and use of the structure.

9 In appraising such effects and relationships, the factors of historical,
10 social, cultural, architectural, and aesthetic significance, interest,
11 importance, and values, and architectural style, design, arrangement,
12 texture, material and color shall be considered. The Review Board may
13 adopt other criteria to follow in the review of applications for Certificate
14 of Appropriateness as it deems appropriate.

15 E. In the event the Building Department, the Fire Department, the City/County
16 Health Department, or any agency of the City/County, or any Court having
17 jurisdiction thereof, (a) shall determine that a structure or any part
18 thereof within a Historic Preservation District is hazardous or dangerous
19 to the health and safety of persons or to property, and, (b) having
20 authority to do so, shall order the construction, reconstruction, altera-
21 tion, or demolition of any such structure, or part thereof to correct
22 the conditions determined to be hazardous or dangerous, nothing in this
23 Article shall be so construed as making it unlawful for any person without
24 the prior issuance of a Certificate of Appropriateness to comply with such
25 order to the extent that such compliance corrects the conditions so
26 determined to be hazardous or dangerous, (c) any agency of the City issuing
27 such an order shall make every effort to insure that the construction,
28 reconstruction, alteration, or demolition is accomplished in keeping with
29 the spirit of this ordinance whenever possible.

30 F. Any agency of the City issuing such an order shall give the Review Board
31 notice of its order or proposed order. No agency of the City shall issue
32 such an order to any person not having a Certificate of Appropriateness

1 for such work within a Historic Preservation District when there is
2 sufficient time to apply for and obtain a Certificate of Appropriateness
3 nor issue such an order for work which would be more than necessary to
4 correct such hazardous or dangerous conditions.

5 G. For demolition within a Historic Preservation District such application
6 for a Certificate of Appropriateness shall be filed with the Planning
7 Department on the form prescribed by the Review Board. Within ten (10)
8 days of receipt, such application shall be scheduled with the Review Board
9 for consideration. The Review Board or Planning Department may require
10 submission of such reports and exhibits as are reasonably necessary in
11 making a determination as to appropriateness. A demolition permit shall
12 not be issued until the Review Board takes one of the following actions:

13 (1) If preservation is found to be physically or economically unfeasible,
14 the Review Board shall authorize issuance of a demolition permit.

15 (2) If preservation is found to be physically or economically feasible,
16 the Review Board shall delay such action for a period not to exceed
17 one (1) year, during which time it shall take whatever public or
18 private action is within its power leading to preservation.

19 If after sixty (60) days the Review Board has not taken final action, the
20 City/County Building Department may treat such application as though
21 demolition has been authorized by the Review Board. Notice shall be
22 posted on the premises of the building or structure proposed for demolition
23 in a location clearly visible from the street. In addition, notice shall
24 be published in a newspaper of general local circulation at least three

25 (3) times prior to demolition, the final notice of which shall be not
26 less than fifteen (15) days prior to the date of the permit, and the
27 first notice of which shall be published no more than fifteen (15) days
28 after the application for a permit to demolish is filed. The purpose of
29 this section is to preserve historic buildings which are important to the
30 education, culture, traditions and the economic values of the governmental
31 unit, interested persons, historical societies or organizations the
32 opportunity to acquire or to arrange for the preservation of such buildings.

1 The Review Board may at any time during such stay approve a Certificate of
2 Appropriateness in which event a permit shall be issued without further
3 delay and demolition may proceed.

4 H. Any person or party aggrieved by a decision made by the Historic Preserva-
5 tion Review Board upon an application for Certification of Appropriateness
6 shall be entitled to a review thereof by the Board of Zoning Appeals
7 of the City in accordance with the provisions of this Section. Such review
8 may be had by filing a petition for review with the Board of Zoning Appeals
9 within fifteen (15) days after receipt of notice that such determination
10 is made by the Historic Preservation Review Board. The Board of Zoning
11 Appeals shall consider such petition and shall limit its review to whether
12 the decision is arbitrary, capricious, an abuse of discretion, or otherwise
13 not in accordance with law. The Board of Zoning Appeals may affirm,
14 remand, or reverse its decision. Any person or party aggrieved by the
15 decision and the order of the Board of Zoning Appeals may appeal to the
16 Allen Circuit Court or Allen Superior Court within thirty (30) days after
17 the date of the decision and the order of the Board of Zoning Appeals
18 pursuant to Indiana law as provided in such cases.
19

20 SECTION 44. PRE-EXISTING HISTORIC DISTRICTS

21 In accordance with this section the original amended maps shall designate
22 previous Historic Districts approved by City Council as part and subject
23 to this ordinance.
24


25 SECTION 45. ENFORCEMENT & PENALTIES

26 The procedure for enforcement of this article shall follow Article V, Section
27 23 and 25 of this ordinance.

28 SECTION 2. That this ordinance shall be in full force and effect
29 from and after its passage, approval by the Mayor and due legal publication
30 thereof.
31

32 _____
Councilman

APPROVED AS TO
FORM & LEGALITY


William N. Salin, City Attorney

Read the first time in full and on motion by _____, seconded by _____

_____ Hinga, and duly adopted, read the second time by title and referred to the Committee on Regulations (and the City Plan Commission for recommendation) and Public Hearing ~~to be held after due legal notice~~, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATE: 3-27-79

Charles W. Westerberman
CITY CLERK

Read the third time in full and on motion by _____

seconded by Hinga, and duly adopted, placed on its passage.

PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>8</u>	<u>1</u>			
<u>BURNS</u>		<input checked="" type="checkbox"/>			
<u>HINGA</u>	<input checked="" type="checkbox"/>				
<u>HUNTER</u>	<input checked="" type="checkbox"/>				
<u>MOSES</u>	<input checked="" type="checkbox"/>				
<u>NUCKOLS</u>	<input checked="" type="checkbox"/>				
<u>SCHMIDT, D.</u>	<input checked="" type="checkbox"/>				
<u>SCHMIDT, V.</u>	<input checked="" type="checkbox"/>				
<u>STIER</u>	<input checked="" type="checkbox"/>				
<u>TALARICO</u>	<input checked="" type="checkbox"/>				

DATE: 11-27-79

Charles W. Westerberman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as

(ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE

(RESOLUTION) No. 2-26-79 on the 27th day of November, 19____

ATTEST: (SEAL)

Charles W. Westerberman
CITY CLERK

Winfield C. Mares JR
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 28th

day of November, 1979, at the hour of 11:30 o'clock A M., E.S.T.

Charles W. Westerberman
CITY CLERK

Approved and signed by me this 30th day of November, 1979.

at the hour of 3 o'clock

P M., E.S.T.

Robert E. Armstrong
MAYOR

4419
3/27
1 BILL NO. G-79-03-20

2 GENERAL ORDINANCE NO. G-_____

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4 District and amending Chapter 33 of the Code
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8 Fort Wayne, Indiana, of 1974, be and the same is hereby amended to be and
9 read as follows:
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11 ARTICLE VI - HISTORIC PRESERVATION DISTRICT

12 This district is an overlay district and may be established in addition to the
13 underlying districts and shall place additional regulations upon the property
14 located therein.

15 SECTION 39. PURPOSES

16 In order to promote the economic and general welfare of the citizens of Fort
17 Wayne and to insure the harmonious, orderly and efficient growth and develop-
18 ment of the municipality, it is deemed essential by the City of Fort Wayne
19 that the qualities relating to the history of the City and a harmonious outward
20 appearance of structures which support and enhance property values and attract
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28 City and which serve as visible reminders of the historic heritage of the City.
29 An Historic District shall apply to the parcel(s) so designated and any
30 structure(s) or appurtenances found thereon. Although this ordinance does not
31 directly relate to the procedures for designation of a structure or area on
32 the National Register of Historic Places, coordination between this ordinance

and the National Register's procedures is strongly encouraged.

SECTION 40. DEFINITIONS

1. Review Board - Fort Wayne Historic Preservation Review Board
2. Certificate of Appropriateness - A certificate issued by the Zoning Enforcement Officer stating that the occupancy, use or alteration of land, building or structure in a Historic District referred to therein complies with the provisions of this chapter.
3. Commission - Fort Wayne City Plan Commission
4. Demolition - The razing of any exterior architectural feature or structure, including its ruin by neglect of necessary maintenance and repairs, or either.
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7. Emergency Repair - Replacement of any external component of a primary structure, which if delayed could cause severe damage to the other components of the structure or which would prohibit adequate protection from the weather elements and thus jeopardize the health, welfare or safety of the occupants.
8. Form - The shape and structure of something as distinguished from its material.
9. Historic District - Any landmark, site or area designated by the City Council which contains any physical features or improvements or both which are of historical, social, cultural, architectural or aesthetic significance. For an historic designation outlining a distinctive section or landmark, a majority of principal structures must be a minimum of fifty (50) years of age.
10. Improvement - Any place, structure, building, fixture, or man-made object which in whole or part constitutes a visually significant exterior physical betterment, adornment, or enhancement of any real property.

11. Landmark - Any physical feature or improvement designated by the City Council as such, which in whole or part has historical, social, cultural, architectural, or aesthetic significance to the City and has been in existence for no fewer than fifty (50) years.
12. Material - Matter that has qualities which give it individuality and by which it may be categorized.
13. Overlay District - A district which imposes requirements in addition to the regulations of the underlying zoning district.
14. Physically Unfeasible - Lack of existence of labor, material and/or techniques to perform the work.
15. Planning Department - The Department of Community Development and Planning or such person authorized.
16. Proportion - Harmonious relation of parts to each other or the whole.
17. Site Improvement - All or any of the landscaping, planting, paving, steps, fencing, masonry walls, and other significant attributing features on the site of any structure.
18. Style - A manner of expression characteristic of an individual, period, school or nation.
19. Texture - The visual or physical surface characteristics and appearance of a structure.

SECTION 41. CREATION OF THE HISTORIC PRESERVATION REVIEW BOARD.

- A. The Review Board shall consist of seven (7) members. The voting members shall be appointed by the Mayor of the City of Fort Wayne. Two members must have Indiana architectural certification; one member shall be a licensed real estate broker; one member shall be a contractor licensed by the Fort Wayne/Allen County Building Department, one member shall be appointed from the City Plan Commission, and two members shall be chosen from the community-at-large. Voting members shall each serve for staggered terms of three (3) years; however, the initial terms of members may be for one (1) year, two (2) years, or three (3) years in order for the terms to be staggered. A vacancy shall be filled through appointment

1 by the Mayor for the duration of the unexpired term. No members shall be
2 employed by the City of Fort Wayne. Members must be residents of the City
3 of Fort Wayne who are interested in the preservation and development of
4 historic buildings and areas.

5 B. Members of the Review Board shall serve without compensation but shall be
6 paid for reasonable expenses incurred in the performance of their duties.

7 C. The Review Board shall elect from its membership a Chairperson, Vice-
8 Chairperson and Secretary who shall serve for one (1) year and who may
9 be reelected. The Review Board shall adopt rules for the transaction of
10 its business not inconsistent with this Section. The rules must include
11 the time and place of regular meetings and a procedure for the calling of
12 special meetings. All scheduled meetings of the Review Board must be open
13 to the public and a public record shall be kept of the Review Board's
14 resolutions, proceedings, and actions. The secretary shall be respon-
15 sible for the maintenance of the Review Board's records.

16 D. Any official action of the Review Board requires a consensus of a majority
17 of the members. For the Review Board to take action a quorum of
18 four (4) members must be present.

19 E. The Review Board shall hold regular meetings, at least monthly, except
20 when it has no business.

21 F. Each official of the governmental unit who has responsibility for building
22 inspection, building permits, planning, or zoning shall provide such
23 technical, administrative and clerical assistance as may be requested by
24 the Review Board.

25 SECTION 42. ESTABLISHMENT AND REGULATION OF HISTORIC PRESERVATION DISTRICTS

26 A. If the City Council finds that an area of land is historically significant
27 and is suitable for preservation, they may establish such area by
28 ordinance as an Historic Preservation Landmark, Site or Area. In the
29 absence of provisions to the contrary in the ordinance creating any such
30 area, all regulations of the underlying district within which such area is
31 situated shall continue to apply; however, it is recognized, that in order
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1 to preserve and protect historic areas, it may be necessary to regulate
2 such area with provisions different from those which would normally apply
3 in the underlying district.

4 B. Amendments may be initiated by a petition from the Plan Commission, or by
5 the owners of 50% or more of the area involved in the petition. Petitions
6 shall be filed in the Planning Department on the form prescribed by the
7 Plan Commission.

8 C. Upon receipt by the Review Board, such application shall be forwarded to
9 the Planning Department, which shall investigate the property which is the
10 subject of such application and shall prepare a written report for the
11 Review Board.

12 D. At the next regularly scheduled meeting of the Review Board following its
13 receipt of the Planning Department's report, such application shall be con-
14 sidered by said Review Board, which shall recommend to the Plan Commission
15 within 180 days:

- 16 (1) that such application be approved as submitted or as modified
17 by that Review Board, or,
18 (2) that action be deferred, or,
19 (3) that such application shall be denied.

20 E. The Plan Commission shall hold a public hearing on such petition and
21 recommendation by the Review Board. At least ten (10) days prior to the
22 date set for such hearing, the Plan Commission shall publish in a newspaper
23 of general circulation in the City, a notice of time and place of such
24 hearing. Following such hearing the Plan Commission shall consider such
25 petition and shall recommend to the City Council:

- 26 (1) that such petition be approved, as submitted or as modified
27 by the Plan Commission, or,
28 (2) that action be deferred, or,
29 (3) that such petition be denied.

1 F. Thereafter, an ordinance relative to such petitions shall be prepared and
2 submitted to the City Council, which shall proceed with the consideration
3 of such proposed ordinance in the same manner and subject to the same vot-
4 ing requirements as would apply in the case of an ordinance to rezone land,
5 provided that the City Council may amend such proposed ordinance prior to
6 its adoption in any manner it may deem necessary to accomplish the purposes
7 of this Section.

8
9 SECTION 43. CERTIFICATES OF APPROPRIATENESS.

- 10 A. In historic districts, no exterior portion of any structure, (including
11 walls, fences, light fixtures, colors, steps and parking lots or other
12 appurtenant features) utility or sign, shall be erected, altered,
13 restored, moved or demolished until an application for a Certificate of
14 Appropriateness has been submitted to and approved by the Review Board.
- 15 B. Unless a threat to life or property exists, no City/County Building
16 Department shall issue any permit for the purpose of construction,
17 alteration, relocation or demolition in an historic district without a
18 Certificate of Appropriateness.
- 19 C. In cases where emergency repair of historic structures is necessary, such
20 work may be performed prior to the issuance of a Certificate of Appro-
21 priateness. The City/County Building Department determines that a need
22 for an emergency repair exists. The applicant must apply for a Certifi-
23 cate of Appropriateness within thirty (30) days of the issuance of the
24 temporary repair permit by the Planning Department.
- 25 D. Nothing in this Section shall prevent the ordinary maintenance or repair
26 of any exterior feature in an historic district which does not involve a
27 change in design, material, color or outer appearance thereof.
- 28 E. An application for a Certificate of Appropriateness shall be filed in the
29 Planning Department on the form prescribed by the Review Board. Within
30 ten (10) days of receipt, such application shall be forwarded to the
31 Review Board for consideration. The Review Board or Planning Department
32 may require submission of such reports and exhibits as are reasonably
necessary in making a determination as to appropriateness. For construc-

tion, alteration or renovation in historic districts, the Review Board shall consider an application for a Certificate of Appropriateness within forty-five (45) days following the receipt of the application.

- F. For demolition within an historic district such application for a Certificate of Appropriateness shall be filed with the Planning Department on the form prescribed by the Review Board. Within ten (10) days of receipt, such application shall be scheduled with the Review Board for consideration. The Review Board or Planning Department may require submission of such reports and exhibits as are reasonably necessary in making a determination as to appropriateness. A demolition permit shall not be issued until the Review Board takes one of the following actions:

(1) If preservation is found to be physically or economically unfeasible, the Review Board shall authorize issuance of a demolition permit.

(2) If preservation is found to be physically or economically feasible, the Review Board shall delay such action for a period not to exceed one (1) year, during which time it shall take whatever public or private action is within its power leading to preservation.

If after sixty (60) days the Review Board has not taken final action, the City/County Building Department may treat such application as though demolition has been authorized by the Review Board.

- G. Appeals from decisions as to the issuance of Certificates of Appropriateness or Demolition permits shall be to the Board of Zoning Appeals, in accordance with Article IV of this Ordinance.

SECTION 44. PRE-EXISTING HISTORIC DISTRICTS

In accordance with this section the original amended maps shall designate previous Historic Districts approved by City Council as part and subject to this ordinance.


SECTION 45. APPEALS PROCEDURE

The procedure for appeals to this article shall follow Article IV of this ordinance.

1 SECTION 46. ENFORCEMENTS

2 The procedure for enforcement of this article shall follow Article III,
3 Section 28, of this ordinance.

4 SECTION 2. That this ordinance shall be in full force and effect
5 from and after its passage, approval by the Mayor and due legal publication
6 thereof.

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9 Councilman

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24 APPROVED AS TO FORM
25 AND LEGALITY, 
26 CITY ATTORNEY

Bill No. G-79-03-20 (AS AMENDED)

REPORT OF THE COMMITTEE ON REGULATIONS

We, your Committee on Regulations to whom was referred an Ordinance
regarding Historic Preservation District and amending Chapter 33
of the Code of the City of Fort Wayne, Indiana 1974

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance do PASS.

JOHN NUCKOLS - CHAIRMAN

SAMUEL J. TALARICO - VICE CHAIRMAN

VIVIAN G. SCHMIDT

JAMES S. STIER

WILLIAM T. HINGA

John Nuckols
Samuel J. Talarico
Vivian G. Schmidt
James S. Stier
William T. Hinga

11-27-79

CONCURRED IN

DATE

CHARLES W. WESTERMAN, CITY CLERK



THE CITY OF FORT WAYNE

COMMUNITY DEVELOPMENT & PLANNING

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

6 March 1979

Members of the City Plan Commission:

At the February Plan Commission Business Meeting it was generally agreed to make every effort to place the Historic Preservation Ordinance on the March Public Hearing agenda. However, after carefully reviewing the mechanics of publishing the legal advertisement, having the ordinance introduced by the City Council, and submitting the draft for review by neighborhood associations and other interested groups; it appears to be physically impossible to meet this timetable. Therefore, I have requested that the ordinance be advertised for public hearing on April 16, 1979, rather than in March. I realize that this puts our preservation program one month behind, but it is my judgement that the need to insure all legal steps are followed must override the original timetable.

Sincerely,

John Stafford, Director
Division of Long Range Planning & Zoning

JS:pb

CC: Steve Hill, Director, CD&P
Gary Baeten, Senior Planner, Long Range Planning & Zoning
F. Robert Woenker, Associate Planner, Long Range Planning & Zoning



THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

city plan commission

2 March 1979

Kenneth Scrogam, Associate City Attorney
1300 Anthony Wayne Bank Building
Fort Wayne, IN 46802

Dear Mr. Scrogam:

The City Plan Commission, in business session, February 26, 1979 passed a motion to forward the Historic Preservation draft ordinance to your office for preparation of the ordinance and then to City Council for introduction.

Attached is the draft ordinance. If you have any questions please notify us.

Sincerely yours,

Gary F. Baeten
Senior Planner

GFB:pb

Attachment

3/7/79
Bill -
although I am personally
opposed to this, City Plan is requesting
the preparation of an ordinance.
Does someone compare this to
S.C. 18-7-22-1 prior to preparation
of the ordinance + introduction or
afterward. Please advise.
Ken Surprenant

RESOLUTION OF THE
FORT WAYNE CITY PLAN COMMISSION

The Fort Wayne City Plan Commission in Executive Session on May 21, 1979, having before it a copy of the Historic Preservation Ordinance Amendment, reviewed said amendment and recommended several modifications be incorporated before the ordinance was forwarded to City Council;

WHEREAS, the staff of the City Plan Commission has submitted to the Fort Wayne Plan Commission, the Historic Preservation Ordinance Amendment with all motions, recommendations and corrections which had been recommended; and,

WHEREAS, the staff of the City Plan Commission has also incorporated recommendations of the United States Department of the Interior and the Indiana State Historic Preservation Office;

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne City Plan Commission that said Historic Preservation Ordinance Amendment hereby be approved.

BE IT FURTHER RESOLVED that the President of the Commission be and is hereby authorized to deliver to the Common Council of the City of Fort Wayne a certified copy of this resolution which shall constitute the approving order of the Fort Wayne City Plan Commission as required by law approving the Historic Preservation Ordinance Amendment.

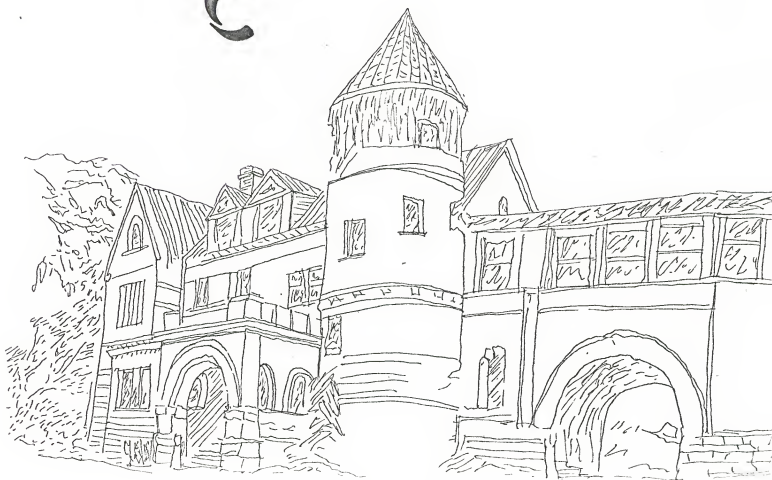
I, George Simler, III, President of the Fort Wayne City Plan Commission, do hereby certify that the foregoing is a full, true and correct copy of a resolution adopted by the Fort Wayne City Plan Commission at an Executive Meeting of said Commission held August 27, 1979, and as the same appears of record in the official records of the said Plan Commission dated the 27th day of August, 1979.

APPROVED:

George Simler, III
President
Fort Wayne City Plan Commission

H I P R E S E R V A T I O N T O R I C

City of
Fort Wayne



ARTICLE IX - HISTORIC PRESERVATION DISTRICT

This district is an overlay district and may be established in addition to the underlying districts and shall place additional regulations upon the property located therein.

³⁹SECTION 33. PURPOSES

In order to promote the economic and general welfare of the citizens of Fort Wayne and to insure the harmonious, orderly and efficient growth and development of the municipality, it is deemed essential by the City of Fort Wayne that the qualities relating to the history of the City and a harmonious outward appearance of structures which support and enhance property values and attract residents be preserved. Some of these qualities are the continued existence and preservation of historic areas and buildings, the continued construction, reconstruction, and remodeling of buildings in the historic styles and a general harmony as to style, form, proportion, texture and material between the buildings of historic design and those of more modern design. This purpose is advanced through the preservation and protection of the historically or architecturally worthy structures which impart a distinct aspect to the City and which serve as visible reminders of the historic heritage of the City. A Historic District shall apply to the parcel(s) so designated and any structure(s) or appurtenances found thereon. Although this ordinance does not directly relate to the procedures for designation of a

Historic Preservation District

Page two

structure or area on the National Register of Historic Places, coordination between this ordinance and the National Register's procedures is strongly encouraged.

SECTION ⁴⁰ 34. DEFINITIONS

1. Review Board - Fort Wayne Historic Preservation Review Board
2. Certificate of Appropriateness - A certificate issued by the Zoning Enforcement Officer stating that the occupancy, use or alteration of land, building or structure in a Historic District referred to therein complies with the provisions of this chapter.
3. Commission - Fort Wayne City Plan Commission
4. Demolition - The razing of any exterior architectural feature or structure, including its ruining by neglect of necessary maintenance and repairs, or either.
5. Demolition Permit - A permit which authorizes the razing of any exterior architectural feature or structure.
6. Economically Unfeasible - A cost in excess of anticipated return, considering all viable alternatives.
7. Emergency Repair - Replacement of any external component of a primary structure, which if delayed could cause severe damage to the other components of the structure or which would prohibit adequate protection from the weather elements and thus jeopardize the health, welfare or safety of the occupants.
8. Form - The shape and structure of something as distinguished from its material.

Historical Preservation District

Page three

9. Improvement - Any place, structure, building, fixture, or man-made object which in whole or part constitutes a visually significant exterior physical betterment, adornment, or enhancement of any real property.
10. Landmark - Any physical feature or improvement designated by the City Council as such, which in whole or part has historical, social, cultural, architectural, or aesthetic significance to the City and has been in existence for no fewer than fifty (50) years.
11. Material - Matter that has qualities which give it individuality and by which it may be categorized.
12. Overlay District - A district which imposes requirements in addition to the regulations of the underlying zoning district.
13. Physically Unfeasible - Lack of existence of labor, material and/or techniques to perform the work.
14. Planning Department - The Department of Community Development and Planning or such person authorized.
15. Proportion - Harmonious relation of parts to each other or the whole.
16. Site Improvement - All or any of the landscaping, planting, paving, steps, fencing, masonry walls, and other significant attributing features on the site of any structure.
17. Style - A manner of expression characteristic of an individual, period, school or nation.

18. Texture - The visual or physical surface characteristics and appearance of a structure.

SECTION 35. CREATION OF THE HISTORIC PRESERVATION REVIEW BOARD

- A. The Review Board shall consist of seven (7) members. The voting members shall be appointed by the Mayor of the City of Fort Wayne and approved by the Fort Wayne City Council. One member must have Indiana architectural certification, one member shall be a Real Estate Broker, one member shall be a contractor licensed by the Fort Wayne/Allen County Building Department, one member shall be a professional historian, and three members shall be chosen from the community-at-large. Voting members shall each serve for staggered terms of three (3) years; however, the initial terms of members may be for one (1) year, two (2) years, or three (3) years in order for the terms to be staggered. A vacancy shall be filled through appointment by the Mayor for the duration of the unexpired term and approved by the Fort Wayne City Council. No members shall be employed by the City of Fort Wayne. Members must be residents of the City of Fort Wayne who have demonstrated an interest in the preservation and development of historic buildings and areas.
- B. Members of the Review Board shall serve without compensation but shall be paid for reasonable expenses incurred in the performance of their duties.
- C. The Review Board shall elect from its membership a Chairperson,

Vice-Chairperson and Secretary who shall serve for one (1) year and who may be reelected. The Review Board shall adopt rules for the transaction of its business not inconsistent with this Section. The rules must include the time and place of regular meetings and a procedure for the calling of special meetings. All scheduled meetings of the Review Board must be open to the public and a public record shall be kept of the Review Board's resolutions, proceedings, and actions. The secretary shall be responsible for the maintenance of the Review Board's records.

- D. Any official action of the Review Board requires a consensus of a majority of the members. For the Review Board to take action a quorum of four (4) members must be present.
- E. The Review Board shall hold regular meetings, at least monthly, except when it has no business.
- F. Each official of the governmental unit who has responsibility for building inspection, building permits, planning, or zoning shall provide such technical, administrative and clerical assistance as may be requested by the Review Board.

¹¹²
SECTION 36. ESTABLISHMENT AND REGULATION OF HISTORIC PRESERVATION DISTRICTS

- A. The City Council may by ordinance establish, amend, or rescind one or more areas or structures of the city as Historic Preservation Districts, in accordance with the procedures and

Historic Preservation

Page six

- standards stated in this Article. A Historic Preservation District is subject to the regulations and restrictions imposed by this Article as well as other Articles of this Ordinance. A Historic Preservation District applies to areas or structures so established and any appurtenances therein or thereto.
- B. Amendments may be initiated by a petition from the Plan Commission, or by the owners of 50% or more of the area involved in the petition. Petitions shall be filed in the Planning Department on the form prescribed by the Plan Commission.
- C. Upon receipt by the Review Board, such application shall be forwarded to the Planning Department, which shall investigate the property which is the subject of such application and shall prepare a written report for the Review Board.
- D. At the next regularly scheduled meeting of the Review Board following its receipt of the Planning Department's report, such application shall be considered by said Review Board, which shall recommend to the Plan Commission within 180 days:
- (1) that such application be approved as submitted or as modified by that Review Board, or,
 - (2) that action be deferred, or,
 - (3) that such application shall be denied.
- E. The Plan Commission shall hold a public hearing on such petition and recommendation by the Review Board. At least ten (10) days prior to the date set for such hearing, the

Historic Preservation

Page seven

Plan Commission shall publish in a newspaper of general circulation in the City, a notice of time and place of such hearing. Following such hearing the Plan Commission shall consider such petition and shall recommend to the City Council:

- (1) that such petition be approved, as submitted or as modified by the Plan Commission, or,
- (2) that action be deferred, or,
- (3) that such petition be denied.

- F. Thereafter, an ordinance relative to such petitions shall be prepared and submitted to the City Council, which shall proceed with the consideration of such proposed ordinance in the same manner and subject to the same voting requirements as would apply in the case of an ordinance to rezone land, provided that the City Council may amend such proposed ordinance prior to its adoption in any manner it may deem necessary to accomplish the purposes of this section.
- G. A Historic Preservation District shall not be established unless the proposed area or structure is consistent with the purposes of this Article and one or more of the following standards:
- (1) The presence of one or more styles of architecture: (a) reflecting one or more historical periods; (b) having a unique significance, interest, importance, or value, or; (c) in danger of becoming extinct.
 - (2) The presence of one or more structures or structural features which are of historical, social, cultural,

architectural, or aesthetic significance, interest, importance, or value.

- (3) The presence of a distinct historic interest of a local, state, or national character.

SECTION ⁴³37. CERTIFICATES OF APPROPRIATENESS

- A. In Historic Districts no exterior portion of any structure, (including walls, fences, light fixtures, colors, steps and parking lots or other appurtenant features) utility or sign, shall be erected, altered, restored, moved or demolished until an application for a Certificate of Appropriateness has been submitted to and approved by the Review Board.
- B. Nothing in this Article shall be construed to prevent the ordinary repairs and maintenance of any such structure.
- C. An application for a Certificate of Appropriateness shall be filed in the Planning Department on the form prescribed by the Review Board. Within ten (10) days of receipt, such application shall be forwarded to the Review Board for consideration. The Review Board or Planning Department may require submission of such reports and exhibits as are reasonably necessary in making a determination as to appropriateness. For construction, alteration or renovation in Historic Districts, the Review Board shall consider an application for a Certificate of Appropriateness within thirty (30) days following the receipt of the application.

D. A Certificate of Appropriateness shall not be issued unless the Review Board finds that the proposed work is appropriate and consistent with the purposes of this Article and after considering the following standards:

- (1) The effect of the proposed work in creating, changing, destroying, or affecting the exterior architectural features of the structure upon which such work is to be done,
- (2) The relationship between such exterior architectural features, together with such effects, and the exterior architectural features of the structure,
- (3) The relationship between the results of such work and the exterior architectural features of any other, neighboring structures in such district,
- (4) The effects of such work upon the preservation, protection, enhancement, perpetuation, and use of the structure.

In appraising such effects and relationships, the factors of historical, social, cultural, architectural, and aesthetic significance, interest, importance, and values, and architectural style, design, arrangement, texture, material and color shall be considered. The Review Board may adopt other criteria to follow in the review of applications for Certificate of Appropriateness as it deems appropriate.

E. In the event the Building Department, the Fire Department, the City/County Health Department, or any agency of the

City/County, or any Court having jurisdiction thereof, (a) shall determine that a structure or any part thereof within a Historic Preservation District is hazardous or dangerous to the health and safety of persons or to property, and, (b) having authority to do so, shall order the construction, reconstruction, alteration, or demolition of any such structure, or part thereof to correct the conditions determined to be hazardous or dangerous, nothing in this Article shall be so construed as making it unlawful for any person without the prior issuance of a Certificate of Appropriateness to comply with such order to the extent that such compliance corrects the conditions so determined to be hazardous or dangerous, (c) any agency of the City issuing such an order shall make every effort to insure that the construction, reconstruction, alteration, or demolition is accomplished in keeping with the spirit of this ordinance whenever possible.

F. Any agency of the City issuing such an order shall give the Review Board notice of its order or proposed order. No agency of the City shall issue such an order to any person not having a Certificate of Appropriateness for such work within a Historic Preservation District when there is sufficient time to apply for and obtain a Certificate of Appropriateness nor issue such an order for work which would be more than necessary to correct such hazardous or dangerous conditions.

G. For demolition within a Historic Preservation District such

application for a Certificate of Appropriateness shall be filed with the Planning Department on the form prescribed by the Review Board. Within ten (10) days of receipt, such application shall be scheduled with the Review Board for consideration. The Review Board or Planning Department may require submission of such reports and exhibits as are reasonably necessary in making a determination as to appropriateness. A demolition permit shall not be issued until the Review Board takes one of the following actions:

- (1) If preservation is found to be physically or economically unfeasible, the Review Board shall authorize issuance of a demolition permit.
- (2) If preservation is found to be physically or economically feasible, the Review Board shall delay such action for a period not to exceed one (1) year, during which time it shall take whatever public or private action is within its power leading to preservation.

If after sixty (60) days the Review Board has not taken final action, the City/County Building Department may treat such application as though demolition has been authorized by the Review Board. Notice shall be posted on the premises of the building or structure proposed for demolition in a location clearly visible from the street. In addition, notice shall be published in a newspaper of general local circulation at

Historic Preservation

Page twelve

least three (3) times prior to demolition, the final notice of which shall be not less than fifteen (15) days prior to the date of the permit, and the first notice of which shall be published no more than fifteen (15) days after the application for a permit to demolish is filed. The purpose of this section is to preserve historic buildings which are important to the education, culture, traditions and the economic values of the governmental unit, interested persons, historical societies or organizations the opportunity to acquire or to arrange for the preservation of such buildings. The Review Board may at any time during such stay approve a Certificate of Appropriateness in which event a permit shall be issued without further delay and demolition may proceed.

- H. Any person or party aggrieved by a decision made by the Historic Preservation Review Board upon an application for Certification of Appropriateness shall be entitled to a review thereof by the Board of Zoning Appeals of the City in accordance with the provisions of this Section. Such review may be had by filing a petition for review with the Board of Zoning Appeals within fifteen (15) days after receipt of notice that such determination is made by the Historic Preservation Review Board. The Board of Zoning Appeals shall consider such petition and shall limit its review to whether the decision is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. The Board of Zoning Appeals may affirm, remand, or reverse its decision. Any person or party aggrieved by the decision and the

Historic Preservation

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order of the Board of Zoning Appeals may appeal to the Allen Circuit Court or Allen Superior Court within thirty (30) days after the date of the decision and the order of the Board of Zoning Appeals pursuant to Indiana law as provided in such cases.

SECTION ⁴⁴38. PRE-EXISTING HISTORIC DISTRICTS

In accordance with this section the original amended maps shall designate previous Historic Districts approved by City Council as part and subject to this ordinance.

SECTION ⁴⁵39. ENFORCEMENT & PENALTIES

This procedure for enforcement of this article shall follow Article V, Section 23 and 25 of this ordinance.

HISTORIC PRESERVATION

(AMENDMENTS)

Section 1.

- a. Change Article VI to Article IX
- b. Change Chapter 33 to Chapter 36
- c. Change 1974 to 1946

Article VI - No Change

Section 39.- Change to Section 33.

- a. Change Purpose Of Article to Purpose

Section 40. Change to Section 34.

- a. 9. Historic District - Deleted / Insert - 9. Improvement
- b. 10. Improvement - Deleted / Insert - 10. Landmark
- c. 11. Landmark - Deleted / Insert - 11. Material
- d. 12. Material - Deleted / Insert - 12. Overlay District
- e. 13. Overlay District - Deleted / Insert - 13. Physically Unfeasible
- f. 14. Physically Unfeasible - Deleted / Insert - 14. Planning Department
- g. 15. Planning Department - Deleted / Insert - 15. Proportion
- h. 16. Proportion - Deleted / Insert - 16. Site Improvement
- i. 17. Site Improvement - Deleted / Insert - 17. Style
- j. 18. Style - Deleted / Insert - 18. Texture

Section 41. Change to Section 35.

Paragraph (A) Changes

- 1. Insert as part of second sentence.....and approve by the Fort Wayne City Council
- 2. Change... two members must have Indiana architectural certification to one member
- 3. Change...licensed real estate broker to real estate broker
- 4. Delete... one member shall be appointed from the City Plan Commission
- 5. Insert....One member shall be a professional historian
- 6. Change... and two members shall be chosen from the community-at-large to three members
- 7. Insert as part of fifth sentence....and approval by the Fort Wayne City Council

Section 42. Change to Section 36.

Paragraph (A) Change In Its Entirety to Read:

- A. The City Council may by ordinance establish, amend, or rescind one or more areas or structures of the City as Historic Preservation Districts, in accordance with the procedures and standards stated in this Article. A Historic Preservation District is subject to the regulations and restrictions imposed by this Article as well as other Articles of this Ordinance. A Historic Preservation District applies to areas of structures so established and any appurtenances thereto.

Add Paragraph G:

- G. A Historic Preservation District shall not be established unless the proposed area or structure is consistent with the purposes of this Article and one or more of the following standards.
- (1) The presence of one or more styles of architecture: (a) reflecting one or more historical periods; (b) having a unique significance, interest, importance, or value, or; (c) in danger of becoming extinct.
 - (2) The presence of one or more structures or structural features which are of historical, social, cultural, architectural, or aesthetic significance, interest, importance, or value.
 - (3) The presence of a distinct historic interest of a local, state, or national character.

Section 43. Change to Section 37.

Paragraph (B) Change In Its Entirety to Read:

- B. Nothing in this Article shall be construed to prevent the ordinary repairs and maintenance of any such structure.
- E. Changed to Paragraph C - Last sentence is to read 30 days instead of 45.
- D. Delete in its entirety - replaced by new paragraph.
- E. Delete in its entirety - replaced by new paragraph.
- F. Delete in its entirety - replaced by new paragraph.
- G. Delete in its entirety - replaced by new paragraph.
- H. New Paragraph added.

Section 44. Change to Section 38.

Page three

Section 45. Appeals Procedure - Change to Section 39. Enforcement & Penalties

Change Article III. Section 28. to Article V. Section 23 & 25.

Section 46. Delete

HISTORIC PRESERVATION ORDINANCE

Introduction

The increased interest in the preservation of the City's past, changes in the federal legislation that now encourage preservation and restoration, the tax incentives that make preservation more financially attractive, and the impetus created by the Historic Survey have had a bearing on the decision to develop a more comprehensive ordinance to deal with Historic Preservation.

The draft ordinance was prepared by CD&P in the latter part of 1978. The draft was circulated through eighty-nine (89) neighborhood associations, Ball State University, Indiana/Purdue University, Indiana Department of Natural Resources, State Historic Preservation Office, U.S. Department of Interior, etc. The attached ordinance incorporates the comments of all those contacted, wherever possible.

Historic Survey

The primary objective of the historic survey is the preparation of a comprehensive listing of districts, buildings, sites, objects, and structures throughout the City of Fort Wayne deemed appropriate to be included in a state-wide historic preservation plan, an inventory of those sites showing location, evaluation and condition, and for consideration of possible federal-level recognition and protective measures.

The identification of structures and districts of valuable architectural and historic significance promotes an awareness of such resources. The survey also identifies for governmental agencies the areas and structures that suggest preservation consideration, thus adding a resource inventory to be considered in future planning and development strategies. The resulting information is additionally important to the Indiana Department of Natural Resources, Division of Historic Preservation, which uses the inventory to determine assistance in protecting historical and architectural resources and also to evaluate the impact of state and federally funded projects on these resources.

Locally, awareness to historic and cultural assets can promote community pride and involvement in the preservation of the environment, often encouraging new community policies in regard to the conservation of endangered resources. In addition the inventory records for posterity the valuable resources that presently exist in Fort Wayne and thus provides a reference for future understanding of the cultural development of the City.

Ordinance Explanation

The Historic Preservation Ordinance establishes a seven (7) member Historic Preservation Review Board. The Board members are appointed by the Mayor and approved by City Council.

The Ordinance establishes two distinctive functions for the Board which are:

- First: Advisory to the City Plan Commission regarding all requests for Historic Preservation District designation. The Historic Preservation Districts will be established through the same procedures as the Zoning Ordinance Amendments. The requests will be referred to the Historic Preservation Review Board by the Plan Commission for their recommendation. The Board, in making its recommendation to the City Plan Commission, will use the Historic Structures Survey as its primary reference.
- Second: All exterior changes which are proposed for any property or building in a Historic District must be reviewed and approved by the Historic Preservation Review Board. Some of the items which will require Historic Preservation Review Board approval will include:
- a. Building Facades
 - b. Building Expansions
 - c. Parking Lots
 - d. Fences
 - e. Light Fixtures
 - f. Demolitions

The Ordinance provides for an appeals procedure through the Board of

Page four

Zoning Appeals for decisions made by the Historic Preservation Review Board.

In reviewing appeals from the Historic Preservation Board the Board of Zoning Appeals shall limit its review to whether the decision is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

TAX INCENTIVES FOR HISTORIC PRESERVATION

By Jann Haynes Gilmore

For much of the 1960's and early 1970's the philosophy of building in this country was symbolized by the destruction of downtown areas through urban renewal programs and by the belief that building new was better. In the past several years, however, the amenities offered by older building stock have become more appealing. Contributing to this reversal are the escalating costs of new construction and the energy crisis, which has made living near one's place of work more cost-effective. A recent study by the U.S. Department of the Interior illustrates why rehabilitation of our older buildings is so important. According to the report, rehabilitation is more labor intensive, consumes less energy, and costs less per square foot than new construction. The combination of these factors has resulted in the rebirth of older urban neighborhoods and commercial areas.

Recognizing that revitalization of our building stock is an important national goal, Congress established a federal program which encourages rehabilitation by offering tax incentives to private owners who invest in rehabilitation of historic commercial or income-producing residential buildings.

These private tax incentives are provided by the Tax Reform Act of 1976. Federal tax policy prior to the passage of the act encouraged demolition of historic structures and their replacement by new construction. Under the new law, owners of the following depreciable properties are eligible for tax benefits: (1) property listed individually in the National Register of Historic Places; (2) properties located within an historic district listed in the National Register and certified



Once a private home, this brick mansion in Rochester, New York, has been rehabilitated to serve as corporate headquarters for an international manufacturing firm.

by the Secretary of the Interior as contributing to the historical significance of the district; and (3) properties located in a local district meeting all the requirements for listing in the National Register that has been created by an approved state or local statute and certified by the Secretary of the Interior as contributing to historical significance.

Incentives. Under section 2124 of the Tax Reform Act, owners of these depreciable properties can invest in rehabilitation and receive rapid write-off tax advantages. The law provides that a taxpayer may amortize (a method of deducting from gross taxable income a portion of the cost of a capital asset each month) over a 60-month period any capital expenditure incurred in a *certified rehabilitation of a certified historic structure* in lieu of standard depreciation deductions. There is no minimum amount of capital expenditure an owner must incur. To take advantage of this incentive, rehabilitation expenditures must occur after June 14, 1976, and before June 15, 1981. The effect of

this provision is to allow tax savings in a short time period—five years—where owners were previously required to spread deductions over the life of the property, usually ranging from 20 to 45 years. The second incentive provided by the Tax Reform Act allows an owner of an income-producing property to depreciate the basis or cost of the entire structure at a faster rate than he otherwise would be allowed, if the property qualifies as a *substantially rehabilitated historic property*. This tax incentive is known as accelerated depreciation and is a method of depreciation in which deductions larger than those computed under straight-line depreciation are taken during the early years of the property's useful life. A substantially rehabilitated historic property is one for which the rehabilitation expenditures in a 24-month period ending on the last day of the year exceed either \$5,000 or the adjusted basis of the property at the beginning of the 24-month period, whichever is greater. Under the act, substantially rehabilitated property is eligible for accelerated depreciation

Jann Haynes Gilmore is an architectural historian and Acting Chief of the Tax Reform Unit, National Register of Historic Places, Heritage Conservation and Recreation Service, U.S. Department of the Interior.

if the rehabilitation is undertaken after June 30, 1976, and before July 1, 1981.

In conjunction with these incentives, there are two provisions to discourage the demolition of historic buildings. The cost of demolishing a certified historic building can no longer be deducted by an owner or lessee; rather, any expenditures incurred or loss sustained due to demolition must be added to the value of the land. Nor can deductions be taken for any remaining basis of the structure that has not been depreciated.

The second disincentive prohibits accelerated depreciation for any property constructed on a site previously occupied by a certified historic structure that has been demolished. Provisions for the demolition of historic properties apply after June 30, 1976, and before January 1, 1981. All properties are assumed to contribute to the district unless the Secretary of the Interior determines otherwise.

The second provision limits taxpayers to straight-line depreciation, thus providing lower tax deductions in the early years of a project—the period during which a tax break is considered important as a means of improving cash flow.

Revenue Act. In November 1978, Congress passed the Revenue Act. It clarifies portions of the 1976 tax act, allows lessees of 30 years or more to use the amortization provision, and provides a third rehabilitation tax incentive. This incentive

There are two provisions to discourage the demolition of historic buildings.

(Section 315) permits a 10% investment tax credit for rehabilitation expenses incurred for buildings 20 years or older that are used for commercial or industrial purposes. The credit applies to expenses made after October 31, 1978, and improvements must have a life of five years or more. If the tax credit is to be used for a property listed in the National Register or certified as contributing to an historic district for purposes of the Tax Reform Act of 1976, the taxpayer must have the rehabilitation certified by the Department of the Interior.

The investment tax credit cannot be used with the amortization provision of the Tax Reform Act, but it can be used with the accelerated depreciation incentive. Unlike the tax

incentives of the Tax Reform Act, which are deductions from gross income to reach taxable income before figuring actual taxes owed, the 10% investment credit is deducted directly from the taxes owed by the taxpayer.

Certification process. The Secretary of the Interior has the responsibility of certifying which properties are historic and which properties qualify for the tax incentives. The Department of the Interior has published regulations it uses to evaluate the historic significance, the effectiveness of the provisions of state and local statutes designating historic districts, and the quality of rehabilitation work. The Internal Revenue

Service is responsible for developing all regulations on the tax aspects of the preservation incentives of the Tax Reform Act. IRS will determine which historic properties qualify as depreciable and which new construction, rehabilitation, or demolition expenses are subject to the Tax Reform Act's provisions.

A depreciable property individually listed in the National Register is automatically certified as significant. In order for a property owner to determine if his property is listed in the National Register, he should consult the *Federal Register*, found in most libraries, which publishes a complete listing of all properties in

How Planners Can Get Involved in Preservation

David A. Wicks, a Denver city planner, has suggested the following ways in which planners can get involved in preservation.

1. Planners can inform developers and other members of the private sector of the availability of federal and state historic preservation programs.

2. Planners should know about all local programs for historic preservation, such as local property tax abatement programs and tax exemptions for easements granted on historic buildings.

3. Planners can organize surveys and inventories of historic and cultural resources within their jurisdictions and can integrate this data into a preservation plan for the area.

4. Planners can be instrumental in incorporating the preservation plan into the larger, comprehensive plan of the area.

5. Planners can ensure that local landmark controls complement and reinforce the effects of National Register listing of historic properties. For instance, the local Denver ordinance creating the Larimer Square Historic District provides city controls for both public and private development in the district, including all new construction, demolition, and alterations to the exterior of the buildings.

6. Planners can ensure that zoning in older areas of a city encourages rather than discourages rehabilitation of historic buildings.

7. Planners can encourage less

intensive zoning. Older areas of cities have been overzoned in recent years, which has led to intensive redevelopment pressures. Planners can work toward a type of zoning in these areas that is more compatible with the older buildings and which encourages rehabilitation and adaptive reuse rather than new development.

8. Planners can encourage zoning techniques that might not be available under present zoning codes. For example, "use-exception" zoning is a special provision of the zoning code that allows limited office use in residentially zoned districts in order to encourage preservation of historic structures which are no longer economically viable as residential buildings.

9. Planners can encourage more flexible local building codes. Most building codes today are oriented toward contemporary building technology, not older building technology. Flexibility in building codes can encourage rehabilitation.

10. Planners can keep local building departments informed of listings of buildings and districts in the National Register and of locally designated landmarks and districts. The building department can, in turn, inform the local planning office of permits issued for demolition or substantial changes for these buildings. The planning office can then discuss alternatives to demolition and changes to the historic buildings with the property owner.

the National Register. If he cannot determine if his property is part of a district, he should consult his State Historic Preservation Officer (SHPO). Each state has an SHPO appointed by the governor and supported by a professional staff of historians, architects and archeologists.

A depreciable property located within a National Register historic district or within a district designated under an approved state or local statute must be evaluated to determine if it contributes to the historical significance of the district. The "Secretary of the Interior's Standards for Evaluating Structures within Historic Districts" have been developed to guide professionals and others in this part of the certification process.

These standards are designed to guarantee that only contributing buildings within historic districts are eligible for the tax treatments. For example, a 1960's gasoline station located within the boundaries of an historic district noted for its late nineteenth century commercial architecture would be considered intrusive and would not qualify for the tax benefits. However, the standards are broad and the majority of buildings within a district are eligible for the tax treatments if they are similar in materials, design, and scale to the rest of the noteworthy buildings and if they retain their original architectural features.

An owner of a structure that appears to meet the necessary criteria,

Planners can inform local governments of the opportunities available.

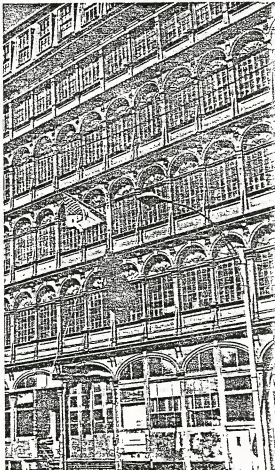
but is not yet listed in the National Register, may request preliminary certification of significance for his property. He fills out Part I of the two-part Historic Preservation Certification Application and sends it to the SHPO, along with current photographs of the structure. The SHPO forwards the material with his recommendation to Washington. Such certifications are preliminary only and are reconsidered at the time the actual nomination of the building or district is received at the state and in Washington. Thus, a property owner is proceeding at his own risk. He has 30 months after he begins taking tax deductions, according to the IRS, to have his property listed in the National Register.



Above, this townhouse, located in the Souldard Historic District in St. Louis, has been certified as contributing to the district by the Secretary of the Interior. Badly damaged by fire, it was rehabilitated into four apartment units. Below, an investment of \$1.5 million will convert this cast-iron factory building, shown prior rehabilitation work, into offices and apartments in downtown Boston.

Standards. Once a property owner has received notification that his building has been certified for significance, his property is eligible for a *certification of rehabilitation*. This is an important step, and the owner of an historic building should apply for certification of rehabilitation as early as possible to ensure that the project meets the Interior Department's standards. There are ten basic principles, known as the "Secretary of the Interior's Standards for Rehabilitation," which guide the rehabilitation process so that certain historical or architectural features are not altered.

To receive certification of rehabilitation, an owner completes Part 2 of the Historic Preservation Certification Application, which includes a description of the rehabilitation work and its effects on the existing architectural features. Photographs, drawings, and sketches illustrating existing conditions, an owner's statement that the project meets the standards, and photographs of the completed work are



also included. The owner sends the form to the SHPO who makes a recommendation to the Technical Preservation Services Division in Washington. This division will work with owners and architects to develop

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ARTICLE IX - HISTORIC PRESERVATION DISTRICT

This district is an overlay district and may be established in addition to the underlying districts and shall place additional regulations upon the property located therein.

SECTION ³⁴~~33~~. PURPOSES

In order to promote the economic and general welfare of the citizens of Fort Wayne and to insure the harmonious, orderly and efficient growth and development of the municipality, it is deemed essential by the City of Fort Wayne that the qualities relating to the history of the City and a harmonious outward appearance of structures which support and enhance property values and attract residents be preserved. Some of these qualities are the continued existence and preservation of historic areas and buildings, the continued construction, reconstruction, and remodeling of buildings in the historic styles and a general harmony as to style, form, proportion, texture and material between the buildings of historic design and those of more modern design. This purpose is advanced through the preservation and protection of the historically or architecturally worthy structures which impart a distinct aspect to the City and which serve as visible reminders of the historic heritage of the City. An Historic District shall apply to the parcel(s) so designated and any structure(s) or appurtenances found thereon. Although this ordinance does not directly relate to the procedures for designation of a structure or area on the National Register of Historic Places, coordination between this ordinance and the National Register's procedures is strongly encouraged.

SECTION 34. DEFINITIONS

1. Review Board - Fort Wayne Historic Preservation Review Board
2. Certificate of Appropriateness - A certificate issued by the Zoning Enforcement Officer stating that the occupancy, use or alteration of land,

building or structure in a Historic District referred to therein complies with the provisions of this chapter.

3. Commission - Fort Wayne City Plan Commission
4. Demolition - The razing of any exterior architectural feature or structure, including its ruin by neglect of necessary maintenance and repairs, or either.
5. Demolition Permit - A permit which authorizes the razing of any exterior architectural feature or structure.
6. Economically Unfeasible - A cost in excess of anticipated return, considering all viable alternatives.
7. Emergency Repair - Replacement of any external component of a primary structure, which if delayed could cause severe damage to the other components of the structure or which would prohibit adequate protection from the weather elements and thus jeopardize the health, welfare or safety of the occupants.
8. Form - The shape and structure of something as distinguished from its material.
9. Historic District - Any landmark, site or area designated by the City Council which contains any physical features or improvements or both which are of historical, social, cultural, architectural or aesthetic significance. For an historic designation outlining a distinctive section or landmark, a majority of principal structures must be a minimum of fifty (50) years of age.
10. Improvement - Any place, structure, building, fixture, or man-made object which in whole or part constitutes a visually significant exterior physical betterment, adornment, or enhancement of any real property.
11. Landmark - Any physical feature or improvement designated by the City Council as such, which in whole or part has historical, social, cultural, architectural, or aesthetic significance to the City and has been in

existence for no fewer than fifty (50) years.

12. Material - Matter that has qualities which give it individuality and by which it may be categorized.
13. Overlay District - A district which imposes requirements in addition to the regulations of the underlying zoning district.
14. Physically Unfeasible - Lack of existence of labor, material and/or techniques to perform the work.
15. Planning Department - The Department of Community Development and Planning or such person authorized.
16. Proportion - Harmonious relation of parts to each other or the whole.
17. Site Improvement - All or any of the landscaping, planting, paving, steps, fencing, masonry walls, and other significant attributing features on the site of any structure.
18. Style - A manner of expression characteristic of an individual, period, school or nation.
19. Texture - The visual or physical surface characteristics and appearance of a structure.

SECTION 35. CREATION OF THE HISTORIC PRESERVATION REVIEW BOARD.

- A. The Review Board shall consist of seven (7) members. The voting members shall be appointed by the Mayor of the City of Fort Wayne. Two members must have Indiana architectural certification; one member shall be a licensed real estate broker; one member shall be a contractor licensed by the Fort Wayne/Allen County Building Department, one member shall be appointed from the City Plan Commission, and two members shall be chosen from the community-at-large. Voting members shall each serve for staggered terms of three (3) years; however, the initial terms of members may be for one (1) year, two (2) years, or three (3) years in order for the terms to be

staggered. A vacancy shall be filled through appointment by the Mayor for the duration of the unexpired term. No members shall be employed by the City of Fort Wayne. Members must be residents of the City of Fort Wayne who are interested in the preservation and development of historic buildings and areas.

- B. Members of the Review Board shall serve without compensation but shall be paid for reasonable expenses incurred in the performance of their duties.
- C. The Review Board shall elect from its membership a Chairperson, Vice-Chairperson and Secretary who shall serve for one (1) year and who may be reelected. The Review Board shall adopt rules for the transaction of its business not inconsistent with this Section. The rules must include the time and place of regular meetings and a procedure for the calling of special meetings. All scheduled meetings of the Review Board must be open to the public and a public record shall be kept of the Review Board's resolutions, proceedings, and actions. The secretary shall be responsible for the maintenance of the Review Board's records.
- D. Any official action of the Review Board requires a consensus of a majority of the members. For the Review Board to take action a quorum of four (4) members must be present.
- E. The Review Board shall hold regular meetings, at least monthly, except when it has no business.
- F. Each official of the governmental unit who has responsibility for building inspection, building permits, planning, or zoning shall provide such technical, administrative and clerical assistance as may be requested by the Review Board.

SECTION 36. ^{36A} ESTABLISHMENT AND REGULATION OF HISTORIC PRESERVATION DISTRICTS

- A. If the City Council finds that an area of land is historically significant and is suitable for preservation, they may establish such area by ordinance as an Historic Preservation Landmark, Site or Area. In the absence of provisions to the contrary in the ordinance creating any such area, all regulations of the underlying district within which such area is situated shall continue to apply; however, it is recognized, that in order to preserve and protect historic areas, it may be necessary to regulate such area with provisions different from those which would normally apply in the underlying district.
- B. Amendments may be initiated by a petition from the Plan Commission, or by the owners of 50% or more of the area involved in the petition. Petitions shall be filed in the Planning Department on the form prescribed by the Plan Commission.
- C. Upon receipt by the Review Board, such application shall be forwarded to the Planning Department, which shall investigate the property which is the subject of such application and shall prepare a written report for the Review Board.
- D. At the next regularly scheduled meeting of the Review Board following its receipt of the Planning Department's report, such application shall be considered by said Review Board, which shall recommend to the Plan Commission within 180 days:
- (1) that such application be approved as submitted or as modified by that Review Board, or,
 - (2) that action be deferred, or,
 - (3) that such application shall be denied.
- E. The Plan Commission shall hold a public hearing on such petition and

recommendation by the Review Board. At least ten (10) days prior to the date set for such hearing, the Plan Commission shall publish in a newspaper of general circulation in the City, a notice of time and place of such hearing. Following such hearing the Plan Commission shall consider such petition and shall recommend to the City Council:

- (1) that such petition be approved, as submitted or as modified by the Plan Commission, or,
- (2) that action be deferred, or,
- (3) that such petition be denied.

F. Thereafter, an ordinance relative to such petitions shall be prepared and submitted to the City Council, which shall proceed with the consideration of such proposed ordinance in the same manner and subject to the same voting requirements as would apply in the case of an ordinance to rezone land, provided that the City Council may amend such proposed ordinance prior to its adoption in any manner it may deem necessary to accomplish the purposes of this Section.

SECTION 37. CERTIFICATES OF APPROPRIATENESS.

- A. In historic districts no exterior portion of any structure, (including walls, fences, light fixtures, colors, steps and parking lots or other appurtenant features) utility or sign, shall be erected, altered, restored, moved or demolished until an application for a Certificate of Appropriateness has been submitted to and approved by the Review Board.
- B. Unless a threat to life or property exists, no City/County Building Department shall issue any permit for the purpose of construction, alteration, relocation or demolition in an historic district without a Certificate of Appropriateness.
- C. In cases where emergency repair of historic structures is necessary, such

work may be performed prior to the issuance of a Certificate of Appropriateness. The City/County Building Department determines that a need for an emergency repair exists. The applicant must apply for a Certificate of Appropriateness within thirty (30) days of the issuance of the temporary repair permit by the Planning Department.

- D. Nothing in this Section shall prevent the ordinary maintenance or repair of any exterior feature in an historic district which does not involve a change in design, material, color or outer appearance thereof.
- E. An application for a Certificate of Appropriateness shall be filed in the Planning Department on the form prescribed by the Review Board. Within ten (10) days of receipt, such application shall be forwarded to the Review Board for consideration. The Review Board or Planning Department may require submission of such reports and exhibits as are reasonably necessary in making a determination as to appropriateness. For construction, alteration or renovation in historic districts, the Review Board shall consider an application for a Certificate of Appropriateness within forty-five (45) days following the receipt of the application.
- F. For demolition within an historic district such application for a Certificate of Appropriateness shall be filed with the Planning Deaprtment on the form prescribed by the Review Board. Within ten (10) days of receipt, such application shall be scheduled with the Review Board for consideration. The Review Board or Planning Department may require submission of such reports and exhibits as are reasonably necessary in making a determination as to appropriateness. A demolition permit shall not be issued until the Review Board takes one of the following actions:

- (1) If preservation is found to be physically or economically unfeasible, the Review Board shall authorize issuance of a demolition permit.

- (2) If preservation is found to be physically or economically feasible, the Review Board shall delay such action for a period not to exceed one (1) year, during which time it shall take whatever public or private action is within its power leading to preservation.

If after sixty (60) days the Review Board has not taken final action, the City/County Building Department may treat such application as though demolition has been authorized by the Review Board.

- G. Appeals from decisions as to the issuance of Certificates of Appropriateness or Demolition permits shall be to the Board of Zoning Appeals, in accordance with Article VI of this Ordinance.

SECTION 38. PRE-EXISTING HISTORIC DISTRICTS

In accordance with this section the original amended maps shall designate previous Historic Districts approved by City Council as part and subject to this ordinance.

SECTION 39. APPEALS PROCEDURE

The procedure for appeals to this article shall follow Article VI of this ordinance.

SECTION 40. ENFORCEMENTS

The procedure for enforcement of this article shall follow Article VI, Section 23, of this ordinance.

CRITERIA FOR DESIGNATION OF AN HISTORIC DISTRICT

The eligibility as an Historic District can be ascribed to a contiguous group of buildings, structures, appurtenances, environmental settings, sites, objects, and space which reflect the following qualifications:

1. Location: Areas which consist of a contiguous grouping of buildings, sites, objects and spaces, a majority of which continue to exist within the area where they were first created in a mutual relationship of traditional acceptability.
2. Design: Areas which have a sense of cohesiveness expressed through a similarity and/or variety of detail relatedness, architectural or otherwise, based upon the abstracts of aesthetic quality. These include scale, height, proportion, materials, colors, textures, rhythm, silhouette, siting, etc.
3. Setting: Areas which are readily definable by man-made and/or natural boundaries and/or which have a major focal point or points within the given area.
4. Materials: Areas which have a sense of cohesiveness expressed through a similarity and/or variety of material relatedness based upon traditional material use which contributes to a sense of locality.
5. Workmanship: Areas which have a sense of homogeneity reflective of quality aesthetic effort of those periods which represent the majority percentage of the units which comprise the District.
6. Feeling: Areas which impact human consciousness with a sense of time and place.
7. Association: Areas which relate locally, to the lives of individuals, to events created by these individuals and/or to those visual aesthetic qualities which reflect the feeling of time and place.
8. History: Area and buildings associated with events and persons significant in Fort Wayne, and sociological development of a culture of a particular local ethnic group.
9. Work of an Architect of national importance.
10. Superior example of a style or type of building which is becoming, or in danger of becoming extinct locally or nationally.
11. Architectural Survey: A survey conducted in 1978 by the City of Fort Wayne rating structures of architectural uniqueness. This survey can be used for comparison to determine concentration and priority of significant buildings.
12. For an historic designation outlining a distinctive section or landmark, a majority of principal structures must be a minimum of fifty (50) years of age.

4665
DIGEST SHEET

(Amending Bill No.

6-79-03-20)

TITLE OF ORDINANCE Historic Preservation District Ordinance

DEPARTMENT REQUESTING ORDINANCE Community Development & Planning

SYNOPSIS OF ORDINANCE Establishes a Historic Preservation Review Board,

procedures for creation of Historic District, and regulates types of improvements which
can be authorized by the Historic Preservation Review Board in Historic Districts.

EFFECT OF PASSAGE Repeal Article IX - Historical District and replace with
New Ordinance.

EFFECT OF NON-PASSAGE Article IX - Historical Districts would remain in
Zoning Ordinance.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) None

ASSIGNED TO COMMITTEE (J.N.)

4419

Admn. Appr. _____

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(ASSIGN TO COMMITTEE (J.N.) _____